

9710/97

LIMITE

ENFOCUSTOM 45

NOTE

from :Presidency

to :Customs Cooperation Working Party

~~No. prev. doc. : 5358/3/97 ENFOCUSTOM 1 REV 3; 8712/97 ENFOCUSTOM 35~~

Subject :**Strategic action programme for customs (third pillar)**
- Draft Resolution

Delegation will find hereafter the draft Resolution and the timetable for the implementation of the Resolution.

COUNCIL RESOLUTION

of

adopting a strategic action programme for the customs administrations of the Member States of the European Union

The Council of the European Union,

Having regard to the initiative taken by France,

Whereas the European Council adopted an Action plan in the field of Justice and Home Affairs on 11 December 1993; whereas the Council adopted on 14 October 1996 a Resolution laying down the priorities for cooperation in the field of Justice and Home Affairs for the period from 1 July 1996 to 30 June 1998 (multiannual work programme)⁽¹⁾;

Whereas the Mutual Assistance Group '92 and the High Level Group on organized crime have already achieved good results in preparing increased customs and police cooperation;

Whereas the creation of the internal market, the entry into force of the Treaty on European Union, the enlargement of the European Union to include new Member States, the rapid development of trade, the rising illicit goods trade, the international dimension of fraud and the involvement of organized crime therein require that a strategy be specified in order to enable the tasks which customs must fulfil in the European Union to be more unequivocally defined and carried out;

⁽¹⁾ OJ No C 319, 26.10.1996, p. 1.
9710/97
DG H II

Whereas the customs administrations of the Member States of the European Union have a major responsibility for ensuring that legal and regulatory provisions regarding the import, export or transit of goods are correctly applied and that in particular the prohibitions, restrictions and measures of control are enforced;

Whereas breaches of those provisions are prejudicial to the interests of the Member States of the European Union and their inhabitants and represent a serious threat to public health and also to morality and safety;

Whereas for an internal market enabling free movement of goods throughout the customs territory of the Community to exist, it is necessary to implement procedures and controls of an equivalent degree of effectiveness and efficiency throughout the customs territory of Member States, in particular at every point of entry to or exit from that territory, in order to prevent, detect, combat and prosecute breaches of the customs legislation of the Member States of the European Union;

Whereas, in view of the tasks with which they are entrusted, the customs administrations ought to have appropriate means at their disposal and apply the most modern methods;

Whereas a consistent approach to the initiatives taken under titles I and VI of the Treaty on the European Union in which customs administrations are involved will enable a balance to be attained between facilitation of trade and customs control and also help to ensure concerted action by the customs administrations of the Member States;

Whereas such a result can be obtained only by means of optimizing the cooperation between the customs administrations of the Member States;

Whereas, therefore, a framework at European Union level is necessary in order to establish plans and priorities for achieving coordinated action by the Member States to ensure that the customs administrations are better equipped to meet that aim;

Whereas the establishment of a strategic action programme at European Union level is one of the most appropriate forms of action for achieving that aim,

Whereas many legal instruments have already been adopted in the field of customs cooperation⁽²⁾ and the OISIN programme⁽³⁾ is intended provide financial support to this cooperation;

Whereas an action programme on the subject of the vocational training of customs officials has been adopted by the Council (Matthaeus programme) ⁽⁴⁾

Whereas an action programme for customs in the Community (Customs 2000) has been adopted by the European Parliament and the Council⁽⁵⁾;

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- (²) – the Convention of 7 September 1967 between the Member States on the Provision of Mutual Assistance by their Customs Authorities (Naples Convention);
- the Convention of 26 July 1995 on the use of information technology for customs purposes (CIS Convention) (OJ No C 316, 27.11.1995, p. 33);
- the Joint Action of 14 October 1996 providing for a common framework for the initiatives of the Member States concerning liaison officers (96/602/JHA – OJ No L 268, 19.10.1996, p. 2);
- the Joint Action of 29 November 1996 concerning the creation and maintenance of a directory of specialized competences, skills and expertise in the matter of the fight against international organized crime (OJ No L 342, 31.12.1996, p. 2);
- the Joint Action of 29 November 1996 on cooperation between customs authorities and business organizations in combating drug trafficking (customs/business memoranda of understanding) (96/698/JHA – OJ No L 322, 12.12.1996, p. 3);
- the Resolution of 29 November 1996 on the drawing up of police/customs agreements in the fight against drugs (OJ No C 375, 12.12.1996, p. 1);
- the multiannual mandate of 29 November 1996 on joint customs surveillance operations;
- the Joint Action of ... on the refinement of targeting criteria ... (OJ);
- the Resolution of ... on the manual for joint customs surveillance operations (OJ).

- (³) Joint Action of 20 December 1996 providing a common programme for the exchange and training of, and cooperation between, law enforcement authorities (Oisin programme) (97/12/JHA – OJ No L 7, 10.1.1997, p. 5);

- (⁴) OJ No. L 187, 13.7.1991, p. 41.

- (⁵) Decision 210/97/EC of the European Parliament and of the Council of 19 December 1996 adopting an action programme for customs in the Community (Customs 2000) (OJ No L 33, 4.2.1997, p. 24).

HAS ADOPTED THIS RESOLUTION :

1. Establishment of the programme

A strategic action programme is hereby established for the customs administrations of the European Union, supporting and supplementing the initiatives carried out in the Community framework, in particular the Community action programme for customs (Customs 2000). The purpose of the programme shall be to establish even closer cooperation between the Member States of the European Union, particularly in order to intensify their joint efforts to combat customs fraud and illicit trafficking in goods in trade with the European Union.

2. Common objectives

The following common objectives are to serve as the basis for a customs strategy to achieve even closer cooperation and a further strengthening of joint efforts by the Member States of the European Union to combat fraud and illicit trafficking in goods:

- (1) the customs administrations should assess risks and threats to the interests of the European Union, its inhabitants and economic operators and the proper application of legislation which it is for the customs administrations to enforce;
- (2) the customs administrations should ensure the correct application of the legislation which it is for them to enforce, by seeing to it that customs controls are equally effective and efficient throughout the customs territory of the Member States;
- (3) the customs administrations should step up their cooperation further in order to improve their effectiveness and efficiency in carrying out their tasks;

- (4) the customs administrations should continuously adapt their training schemes for customs officials to changes in their tasks and working environment;
- (5) the customs administrations should carry out their tasks, particularly in the field of law enforcement, in such a way as to disturb trade as little as possible and, to that end, strengthen all forms of cooperation with bona fide economic operators;
- (6) the customs administrations should promote effective and harmonious cooperation with other law enforcement agencies, in particular by making arrangements and, where appropriate, concluding memoranda of understanding to that effect;
- (7) the customs administrations should, through appropriate action, contribute to fostering the quality of customs services in third countries which so request.

These objectives shall, for the duration of the programme, involve the activities deemed priorities which are detailed in Points 3 to 9.

3. Risk analysis

1. Development of risk analysis and targeting

In the light of existing experience and with a view to allowing optimum use of the means available, Member States should each study the feasibility of setting up a central service, or failing that, a reference service for assessing risks and threats as referred to in common objective 1 through the collection of information and the development of risk analysis methods.

The reference service should be responsible for collecting, storing, analysing and using information, and transmitting to the relevant services any information on trends discovered and risk evaluations. It shall also be responsible for liaison with the customs administrations in the other Member States, allowing mutual exchanges of information and experience.

Member States should also examine existing legal instruments with a view to establishing and using joint databases to enable them to take account of the risks for Member States of destination when carrying out risk analysis for the purpose of customs controls at the external frontiers of the European Union, in particular at points of entry to or exit from the customs territory of Member States. They shall consider which are the transport sectors or goods for which the setting of uniform risk parameters may be relevant.

2. Improvement of the gathering, analysis, dissemination and use of information at European Union level

In order to contribute towards a further improvement of the effectiveness and efficiency of customs controls and to assist in preventing, detecting, combating and prosecuting serious breaches of the legislation enforced by the customs administrations, Member States should endeavour to implement the Customs Information System referred to in the Convention of 26 July 1995 at the latest by the end of 1998.

4. Customs controls

In order to increase the effectiveness and efficiency of customs controls in the European Union, the programme shall provide for the following measures:

1. Alignment of control methods

In order to achieve equivalent effectiveness and efficiency of controls throughout the customs territory of Member States, in particular at every point of entry to or exit from that territory, Member States should exchange their experience with various control methods, including risk analysis and targeting, with a view to determining which are best suited to which circumstances. Member States should then give preference to the methods so identified. To that end, Member States may make arrangements for deploying manpower and equipment.

2. Strengthening controls

With a view to strengthening controls, the customs administrations of the Member States should organize joint surveillance operations. Such operations may apply to all modes and means of transport and types of goods and shall aim to collect more detailed information on fraud and illicit trade and the methods used. They should also seek to enhance the competent administrations' knowledge of each other, thereby also facilitating cooperation outside the scope of such actions. The customs administrations should comply with jointly established rules when organizing and implementing customs control operations.

3. Identification of centres of expertise

For areas of national customs law or organization for which specific monitoring is deemed to be relevant, particular customs locations or teams within the European Union may be identified as having acquired special knowledge or experience regarding those areas (centres of expertise).

4. Visits to centres of expertise and other points

With the approval of, and accompanied by, the customs administration of the host Member State, Member States which so desire may organize visits to centres of expertise by teams comprising customs experts from the Member States [who may, where necessary, be joined by customs experts from the Commission]. Teams may also, on the basis of a theme-by-theme approach, visit other points in Community customs territory.

5. Reports on the visits

Following the visits, the teams should draw up a report identifying and analysing the best working methods as well as any difficulties in implementing Customs legislation observed at the various sites studied, including suggestions for the adaptation of Customs legislation and organization and working methods in order to improve overall customs effectiveness and efficiency. Those reports should be communicated to the relevant departments in the Member States and, where necessary, to the Commission.

5. Cooperation between customs administrations

1. Exchange of experience with other Member States prior to the purchase of equipment

When purchasing equipment, each customs administration should draw on relevant experience in other Member States. A network of persons responsible for the purchase and use of new equipment in the Member States of the European Union shall be maintained for regular exchanges of information in this area.

2. Study of customs officials' powers

An examination of the powers of customs officials in the Member States should be carried out in the light of the role they are called upon to play in the implementation of this programme.

3. Strengthening of cooperation

Member States should jointly identify areas where cooperation between the customs administrations requires developing or strengthening in order to improve further the effectiveness and efficiency of their work.

4. Strengthening and extension of mutual assistance between the customs administrations of the Member States of the European Union

With due regard for the rules of national law, Member States should encourage the development of appropriate forms of practical cross frontier cooperation including, as far as possible, the special forms of cooperation as foreseen in Title IV of the draft Napels II Convention.

5. Development and strengthening of cooperation via liaison officers

In order to exploit all existing sources of information and transmit all important new data with greater administrative flexibility, each Member State should examine ways of deploying its network of customs liaison officers, in coordination with the networks of its other national law enforcement authorities and those of the other Member States' customs administrations. On the basis of the information collected on the geographic distribution of the staff in question, a coordinated development of the network thus identified should be planned.

6. Training measures

1. Consultations on training measures

Member States should consult one another on greater coordination and consistency in training measures. This should involve, in particular:

- training of staff in new working methods, new technologies, handling of data-processing tools, Internet, etc.;
- implementation of training measures in the field of combating fraud (information gathering, methods of analysis, etc.);
- development of exchanges of officials between the customs administrations of the Member States of the Union and between the latter and the customs administrations of third countries;
- possibility of joint training activities with other law enforcement agencies;
- organization of training seminars.

2. Short- and long-term exchanges of customs officials

In order to improve training of officials, compare practices in the Member States and, where necessary, achieve other aims of the common objectives, Member States should with mutual consent endeavour to develop short- and long-term exchanges of customs officials.

To that end, they should endeavour to experiment with seconding officials to the customs administrations of other Member States so that such officials carry out their tasks in particular at the entry and exit points of the Community's customs territory. The host Member States shall endeavour, without prejudice to their national law, to entrust such officials with the same duties as are discharged by their own officials.

7. Relations with business circles

Member States should subject their practices to constant evaluation in order to ensure that the smooth conduct of legitimate trade is hindered as little as possible by their control and investigation activities. They should endeavour to further improve and strengthen relations between the customs administrations of the Union and economic operators. Account shall be taken in particular of the experience and information available to those operators.

The customs administrations should, inter alia, embark on:

- the development, publication and distribution of informative material intended to make economic operators more familiar with customs procedures;
- an in-depth dialogue with business circles;
- the conclusion of memoranda of understanding, in particular in the area of the fight against drugs trafficking, to facilitate trade and improve controls further;
- training activities for economic operators.

8. Relations with other law enforcement agencies

The customs administrations should endeavour to develop further their cooperation with other law enforcement agencies in order to achieve effective and harmonious cooperation. The relevant arrangements for achieving this should be agreed upon and should be formalized, where appropriate, in the form of memoranda of understanding.

9. Relations with third countries

1. Efforts should be made to develop further the exchange of information and other forms of assistance in relations with third countries. To that end existing legal frameworks should be supplemented or new ones developed.
2. Priority in technical training, assistance and cooperation measures for third country administrations should be given to the third countries which are candidates for accession to the European Union, and to those countries in respect of which risk profiling suggests that the establishment of high-calibre customs services will be a positive contribution to combating fraud and illicit trafficking in goods in trade with the European Union.
3. The training measures should be supplemented by dissemination of information on best working methods and techniques developed in the customs administrations of third countries, and, more generally, by increased cooperation with those countries.

10. Timetable for implementation

The customs administrations of the Member States shall jointly draw up and regularly evaluate a timetable for implementation for this Strategic action programme. The Council will each year be informed of the follow up given to the present resolution.

10.1 Introduction

- i This detailed timetable translates in operational terms the articles of the resolution - strategic action programme for customs in the third pillar. This timetable should be seen as a work programme, indicating the direction which further work by the customs authorities of the Member States of the European Union and the Customs Co-operation Working Group on which they are represented shall take, rather than a legal instrument.

- ii This timetable incorporates the outstanding recommendations of the External Frontier Strategy report which was produced by the Mutual Assistance Group in 1992, as well as those recommendations of the Expert Group on Drugs to the Madrid Council in 1995 which it is appropriate for customs administrations to take forward.
- iii It draws together all of the current activities currently under way in the Customs Co-operation Working Group (CCWG) as well as new activity which the group will carry out during the duration of this programme. It is to be the work programme of the CCWG for the first eighteen months of the strategic action programme - ie July 1997 to December 1998.

TIMETABLE

RISK ANALYSIS - GUIDELINES	Deadlines
1. General guidelines for risk analysis, and specific guidelines on risk analysis for air cargo traffic, were produced by the Netherlands Presidency in the first half of 1997. These shall be used by the Member States.	
2. Further guidelines covering risk analysis for sea, land and air traffic shall be produced.	June 1998
RISK ANALYSIS - CENTRAL SERVICES FOR RISK ANALYSIS	
3. The Member States should investigate the possibility of setting up a central service or, failing that, a reference service, to evaluate risks and threats. This service shall be responsible for gathering, storing, analysing and using information and transmitting data to the competent agencies. This service must exchange information with other Member States.	
4. Some Member States are already very advanced in the area of risk analysis. Their experience will be valuable to the others in considering setting up a central service.	
5. A seminar on risk analysis took place in March 1997 in the Schengen group. CCWG should examine the output from this seminar, and ensure that any best practice or lessons learned in this seminar are circulated to all Member States.	June 1998
6. Member States should report progress on the establishment and operation of central or reference services for risk analysis.	March 1998
7. Consideration should be given to whether a seminar or programme of visits would be helpful for Member States in setting up central or reference services. Consideration should be given to applying for Oisín funding for such activity.	consider by June 1998

RISK ANALYSIS - THREAT ASSESSMENTS	
8. The Member States shall produce threat assessments for high profile sensitive goods covering key points on the external frontier and noting main countries of final destination for the smuggled goods. The threat assessments should cover the transport sectors (air, sea and land) used for smuggling the goods	June 1998
RISK ANALYSIS - NEW RISKS	
9. The Member States shall take action to address new risks. The Internet, in particular, presents new challenges to customs administrations in tackling trafficking in paedophile material and in laundering the proceeds of drug trafficking and other crime.	
10. The National Criminal Intelligence Service (UK) and Centrale Recherche Informatie (Netherlands) are running during 1997-98 a confidential meeting about criminal exploitation of the Internet. Customs representatives shall attend this meeting.	
11. CCWG shall draw up a detailed programme of activities to develop and spread best practice in dealing with technology and crime. Progress against this programme shall be reviewed regularly by the CCWG.	December 1998
CUSTOMS INFORMATION SYSTEM	
12. Member States shall ratify the CIS Convention: Target date of December 1998.	December 1998
13. The Member States shall make use of the CIS SCENT system, not only during specific joint surveillance operations, but during everyday work, to share information with each other. Report shall be made annually on use of the CIS SCENT system. Commission to produce specific screens for joint surveillance exercises by December 1997.	December 1997
14. The Member States shall encourage the Commission in the rapid development of the CIS which could include a joint database covering risk analysis information. Progress to be reported in December 1998.	December 1998
15. Member States shall ensure that the links are explored between CIS/Europol/SIS/Interpol/WCO to ensure effective sharing of information and intelligence between law enforcement agencies in the Member States.	

CENTRES OF EXPERTISE AND SHARING INFORMATION	
16. CCWG shall obtain and circulate the Directory of Centres of expertise.	December 1997
17. Member States shall ensure the Directory of Centres of Expertise is kept up to date and covers all areas of customs interest.	
18. The Member States shall nominate a contact person within their customs administrations for sharing information about technical equipment. These contacts should circulate information to all other Member States about new equipment, and should answer questions from other Member States about the usefulness of pieces of equipment.	June 1998
19. Member States shall compile a catalogue of all known concealment methods, and shall circulate this to all Member States.	December 1998
20. A centre of expertise on relationships with the business community (MoUs, public notices etc) shall be nominated. Models of public notices, newsletters etc to be examined and good examples circulated to other Member States. Report on progress by December 1998	December 1998
CUSTOMS CONTROLS	
21. In order to standardise the effectiveness and efficiency of controls, the Member States shall exchange experience regarding various control methods including risk analysis and targeting to determine which methods are most suitable under which circumstances.	
22. Centres of expertise for container control have been identified. They are Hamburg, Le Havre, Felixstowe, Rotterdam, and Antwerp. A study of container controls at these centres has been carried out to determine best practice. The recommendations from this study are to be taken forward urgently. Consideration should be given to applying for Oisin funding for this work.	December 1998

23. To share the lessons learned from this study and to give tuition in the best practice established, representatives from the expert Member States shall visit other ports, at the request of the host countries. A report shall be made on this programme by December 1998. Consideration should be given to applying for funding from the Oisin programme for these visits.	December 1998
24. Taking note of lessons learned from the study on container controls, a study on an area of customs controls should be carried out each year. In 1998 the study should look at air cargo. Subjects for future years should be decided by CCWG based on threat assessments and priorities. Consideration should be given to applying for funding from the Oisin programme for these studies.	
CO-OPERATION BETWEEN CUSTOMS ADMINISTRATIONS - LEGAL BASE	
25. The Member States shall conclude discussions on the Naples II Convention by end 1997. Each Member State shall ratify the Convention by December 1998.	Conclude discussion end 1997. Ratify by end 1998.
CUSTOMS CONTROLS - JOINT OPERATIONS	
26. The Member States shall organise joint surveillance operations covering a range of transport sectors and targeting a range of sensitive goods. These shall make use of and improve risk analysis techniques. Business cases shall be drawn up for these operations to show the perceived risk. The results of these operations shall be reported to the Council on an annual basis.	
27. In 1997, the Member States shall participate in: - an air traffic surveillance exercise targeting cocaine trafficking from South America; - a road traffic surveillance exercise targeting fraud involving excise goods; - a maritime traffic surveillance exercise (seahorse). These are expected to produce significant seizures of smuggled goods as well as enhancing practical co-operation between the Customs administrations and the Commission has approved funding under the Oisin programme towards these operations. The results of these operations shall be reported to the Council.	During 1997

28. In 1997 the Member States shall participate with third country customs administrations in an exercise organised by the World Customs Organisation targeting heroin trafficking along the Balkan Route. Recognising the value of joint surveillance exercises in enhancing operational co-operation, the Commission has approved 99,000 ECU funding for this exercise as part of the Oisin programme. The results of this exercise shall be reported to the Council.	By December 1997
29. The Member States shall carry out at least four joint surveillance operations each year. The operations shall target high priority prohibitions and restrictions, and shall concentrate on different types of traffic. These operations shall be planned in accordance with the guidelines. Oisin funding shall be applied for all of these operations.	
30. The Member States shall pay particular attention to the results of the land exercise targeting excise goods, and shall consider a business case for a further EU wide operation targeting fiscal fraud in the near future.	June 1998
31. The Member States shall produce a business case for a joint surveillance operation targeting arms trafficking.	February 1998
32. The Member States shall consider the participation of other law enforcement agencies when planning joint surveillance operations.	
33. The Member States shall consider including the Central and Eastern European States in surveillance operations where appropriate.	
34. The Member States shall explore ways of attracting publicity in the news media for the results of joint surveillance operations.	
POWERS OF CUSTOMS OFFICERS	
35. The Member States shall examine the UCLAF DAF database with a view to reporting on the powers of Customs officers in different Member States. Any gaps in this database shall be identified.	December 1998

TRAINING ACTIVITIES	
36. Sweden has conducted a survey of the training available to customs and police officers in the Member States. As a result of the survey, a project is planned to develop common training modules. Oisin funding has been approved for this project. After these training modules have been developed, training shall be delivered according to priorities agreed in CCWG. Consideration shall be given to applying for Oisin funding for this training.	
SHORT AND LONG-TERM EXCHANGES OF CUSTOMS OFFICERS	
37. In addition to formal training, officers shall go on exchanges to encourage on-the-job learning. Oisin funding shall be sought for these exchanges. A report shall be made on exchanges of officers by December 1998.	December 1998
38. In 1997, Oisin funding has been granted for exchanges of French and Dutch officers over a 10 week period. French and Dutch Customs shall report jointly on the results of these exchanges so that Member States may learn lessons from these experiences.	Report to be circulated by December 1998.
RELATIONS WITH THE BUSINESS COMMUNITY	
39. A resolution was agreed in December 1996 on Memoranda of Understanding with the business community. Progress on this to be reported in December 1997	December 1997
RELATIONS WITH OTHER LAW ENFORCEMENT AGENCIES	
40. A report shall be made on progress on the Joint Action on customs/police relations.	June 1998
41. Customs administrations shall send representatives to the seminar on arms trafficking organised jointly by the British Security Service and HM Customs and Excise for all law enforcement agencies concerned with the fight against terrorism.	Early 1998

RELATIONS WITH THIRD COUNTRIES	
42. A report shall be made to Council of the training and assistance in 'third pillar' customs matters provided by the Member States for third countries and the sources of funding available for such projects.	June 1998
43. Representatives of the Central and Eastern European States shall be invited to attend at least one meeting of the CCWG per year.	
